

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|-------------------------------|---|----------------------------|
| SYLVESTER EKWUNIFE,           | : |                            |
| v.                            | : | No. 16-cv-0148             |
|                               | : |                            |
| CITY OF PHILADELPHIA, et al., | : | <i>Jury Trial Demanded</i> |
| Defendants.                   | : |                            |

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**ANSWER TO PLAINTIFF’S COMPLAINT WITH AFFIRMATIVE DEFENSES OF  
DEFENDANTS, PHILADELPHIA POLICE DETECTIVE LARA HAMMOND AND  
OFFICER JOSEPH T. CARTER**

Defendants, Police Detective Laura Hammond and Officer Joseph T. Carter, by and through the undersigned counsel, Brock Atkins, Divisional Deputy City Solicitor, hereby file an answer to the plaintiff’s 4<sup>th</sup> Amended complaint, together with affirmative defenses, and aver as follows:

**PARTIES**

1. Denied. The allegations in this paragraph are denied as conclusions of law.
2. Denied. This is Plaintiff’s statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.
3. Denied. This is Plaintiff’s statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.
4. Denied. After reasonable investigation, the answering defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in

this paragraph, and therefore, the answering defendants deny the allegations.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

## **PARTIES**

5. Denied. After reasonable investigation, the answering defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and therefore, the answering defendants deny the allegations.

6. Denied. The averments contained in paragraph 6 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

7. Denied. The averments contained in paragraph 7 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

8. Denied. The averments contained in paragraph 8 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

9. Denied. No allegations were made in this allegation relating to any conduct or the employment status regarding Police Detective Hammond. To the extent any response is

required, the allegations are denied.

10. Denied. No allegations were made in this paragraph relating to any conduct or the employment status regarding Police Officer Joseph T. Carter. To the extent any response is required, the allegations are denied.

12(sic). Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

#### **JURISDICTION AND VENUE**

13. Denied. The allegations in this paragraph are denied as conclusions of law.

14. Denied. The allegations in this paragraph are denied as conclusions of law.

#### **RELEVANT FACTS TO THIS CASE**

15. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

16. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive

pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

17. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

18. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

19. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

20. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

21. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

22. Denied. This is Plaintiff's statement of the case and is therefore replete with

allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

23. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

24. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

## **COUNT I**

25. Denied. The averments contained in paragraph 25 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

28(sic). Denied. The averments contained in paragraph 28 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The

defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

29. Denied. The averments contained in paragraph 30 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

30. Denied. The averments contained in paragraph 30 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

31. Denied. The averments contained in paragraph 31 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

## **COUNT II**

32. Denied. The averments contained in paragraph 32 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no

further answer is required to the averments contained therein.

33. Denied. The averments contained in paragraph 33 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

34. Denied. The averments contained in paragraph 34 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

35. Denied. The averments contained in paragraph 35 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

36. Denied. The averments contained in paragraph 36 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

### **COUNT III**

37. Denied. The averments contained in paragraph 6 of Plaintiff's Fourth Amended

Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

40(sic). Denied. The averments contained in paragraph 40 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

41. Denied. The averments contained in paragraph 41 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

42. Denied. The averments contained in paragraph 42 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

43. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.



**COUNT IV**

44. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

45. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

46. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

47. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

48. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

**COUNT V**

49. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

**COUNT VI**

50. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

51. Denied. The averments contained in paragraph 51 of Plaintiff's Fourth Amended Complaint are addressed to defendants other than the answering defendant herein. The defendants, Police Detective Hammond and Police Officer Carter, are therefore advised that no further answer is required to the averments contained therein.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

**COUNT VII**

52. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

53. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

**COUNT VIII**

54. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

55. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor,

together with reasonable attorney's fees and the costs of defending this action.

**COUNT IX**

56. The answering defendants incorporate by reference their answers to paragraphs 1 through 55, inclusive, as fully as though the same were here set forth at length.

57. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

58. Denied. This is Plaintiff's statement of the case and is therefore replete with allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

**DAMAGES**

59. Denied. After reasonable investigation, the answering defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and therefore, the answering defendants deny the allegations.

60. Denied. After reasonable investigation, the answering defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph, and therefore, the answering defendants deny the allegations.

61. Denied. This is Plaintiff's statement of the case and is therefore replete with

allegations that are vague, argumentative, and conclusive in nature and require no responsive pleading under the Federal Rules of Civil Procedure. Therefore, all such allegations are denied and strict proof thereof is demanded at time of trial.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Answering Defendants assert all of the defenses, immunities, and limitations of damages available to them under the "Political Subdivision Tort Claims Act" and aver that Plaintiff's remedies are limited exclusively thereto. Act of Oct 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. § 8541 et seq.

#### **THIRD AFFIRMATIVE DEFENSE**

Answering Defendants are immune from liability under the doctrine of qualified immunity.

#### **FOURTH AFFIRMATIVE DEFENSE**

The plaintiff has suffered no legally cognizable injury, harm, loss, or damage upon which relief can be granted.

**FIFTH AFFIRMATIVE DEFENSE**

The plaintiff's claims are barred, in whole or in part, to the extent that he has failed to take reasonable measures to mitigate any or all damages.

**SIXTH AFFIRMATIVE DEFENSE**

The plaintiff's claims are barred, in whole or in part, insofar as Answering Defendants' purported actions or omissions were not the proximate cause of any alleged injury, loss, or damage incurred by the plaintiff.

**SEVENTH AFFIRMATIVE DEFENSE**

At all times material to this civil action, Answering Defendants have acted in a reasonable, proper, and lawful manner.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by the applicable Statute of Limitations.

**WHEREFORE**, defendants, Police Detective Hammond and Police Officer Carter, deny that they are liable to plaintiff, either jointly or severally and demand judgment in their favor, together with reasonable attorney's fees and the costs of defending this action.

Respectfully submitted,

/s/ Brock J. Atkins  
BROCK J. ATKINS  
Divisional Deputy City Solicitor  
City of Philadelphia Law Department  
Civil Rights Unit  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102

DATED: April 6, 2017

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**SYLVESTER EKWUNIFE,**

**v.**

**CITY OF PHILADELPHIA, et al.,  
Defendants.**

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**No. 16-cv-0148**

***Jury Trial Demanded***

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I, BROCK J. ATKINS, hereby certify that on this date, the foregoing **ANSWER WITH AFFIRMATIVE DEFENSES OF DEFENDANTS, POLICE DETECTIVE HAMMOND AND POLICE OFFICER CARTER**, was electronically filed and is available for viewing and downloading from the ECF system.

Warren R. Hamilton, Esquire  
Hanson Square  
328 Fitzwater Street  
Philadelphia, PA 19147

/s/ Brock J. Atkins  
BROCK J. ATKINS  
Divisional Deputy City Solicitor

DATED: April 6, 2017